IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

OP.No. 16196 of 2001(C)

PETITIONER:

N.S.SAVITHRI, PULPARAMBIL HOUSE,
PERUMANNA P.O., CALICUT -26.

BY ADV. SRI.GEORGE THOMAS (MEVADA)

RESPONDENTS:
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1. SOUTH MALABAR GRAMIN BANK, P.B.NO.10,
HEAD OFFICE MALAPPURAM 676 505
REPRESENTED BY ITS CHAIRMAN.

2. THE CHAIRMAN, (DISCIPLINARY AUTHORITY),
SOUTH MALABAR GRAMIN BANK, P.B.NO.10,
HEAD OFFICE MALAPPURAM 676 505.

BY ADV. SRI.T.R.RAVI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.25596 OF 2001 IN OP NO.16196 OF 2001 C

//DISMISSED//

19.06.2007. SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.

APPENDIX

PETIITONER'S EXHIBITS:

EXT.P1: TRUE PHOTOCOPY OF THE COPY OF THE HOTEL REGISTER.

EXT.P2: TRUE PHOTOCOPY OF THE BILL ISSUED BY THE CHAKKALAKAL TOURIST HOME TO THE PETITIONER DTD.26.11.1999.

EXT.P3: TRUE PHOTOCOPY OF THE T.A.BILL OF THE PETITIONER.

EXT.P4: TRUE PHOTOCOPY OF THE SHOW CAUSE NOTICE ISSUED TO THE PETITIONER DATED 15.3.00.

EXT.P5: TRUE PHOTOCOPY OF THE PRELIMINARY REPORT DATED 17.3.00.

EXT.P6: TRUE PHOTOCOPY OF THE MEMO OF CHARGES DATED 15.4.00.

EXT.P7: TRUE PHOTOCOPY OF THE REPLY SUBMITTED BY THE PETITIONER DATED 6.5.00.

EXT.P8: TRUE PHOTOCOPY OF THE REPORT OF THE ENQUIRY OFFICER DATED 8.9.00.

EXT.P9: LTRUE PHOTOCOPY OF THE CARBON COPY OF EXT.P2 BILL.

EXT.P10: TRUE PHOTOCOPY OF THE SHOW CAUSE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DTD 3.10.00.

EXT.P11: TRUE COPY OF THE REPRESENTATIONSUBMITTED BY THE PETITIONER BEFORE THE 2ND REPSONDENT DATED 24.10.00.

EXT.P12: TRUE PHOTOCOPY OF THE ORDER ISSUED BY THE 2ND REPSONDENT DATED 24.11.00.

EXT.P13: TRUE COPY OF the MEMORANDUM OF APPEAL DATED 14.12.00.

EXT.P14: TRUE PHOTOCOPY OF RESOLUTION DTD.5.4.01.

/TRUE COPY/

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.16196 OF 2001

Dated this the 19th day of June, 2007

JUDGMENT

The petitioner is an employee of the first respondent, a banking institution. She had to undergo training at Sultan's Battery for a week from 21.11.1999. It is her case that, accompanied by her husband, she checked into Chakkalakal Tourist Home on 23.11.1999 and stayed there till 26.11.1999, though the training period was to end by 27.11.1999. She made demands for allowances on account of such occupation and that was released by the employer. Later on, on a verification, it was noticed by the officers of the bank that the claim made by the petitioner was apparently not well founded. On certain inspection of the books of accounts of Chakkalakal Tourist Home, the employer came to the tentative conclusion that the receipt, on the basis of which reimbursement was obtained, was not a dependable document and that the petitioner had abused her office and committed breach of trust depriving the employer, a bank, of funds.

2. The petitioner was directed to show cause against the proposed action. This resulted in an enquiry, in which, the officers of the bank, as also the husband of the petitioner who is a college lecturer, were examined. The petitioner's husband, as DW1, gave evidence that a day or two after the occupation of the room in the hotel, he had to return home because the child had fallen sick. This contradicted the version of the petitioner that her husband had to leave the hotel by the 26th because there was some ceremony in the residence.

3. With the materials on record, the disciplinary authority concluded that the charges are proved. The petitioner filed an appeal. The Board of the bank reduced the punishment, as per Ext.P14, to stoppage of one increment with cumulative effect.

4. The gravity of the charge has a dual impact. It tends to charge the petitioner with lack of integrity. It also shows that by breach of trust, the petitioner has deprived her employer, a bank, of funds.

5. It is also a fact apparent that the petitioner was accompanied by her husband and the room was initially booked in the name of the husband, C/o the petitioner. Learned counsel for the petitioner pointed out that the petitioner belongs to an orthodox community and it was accordingly that the room was booked in the name of the husband of the petitioner. However, it is a matter of record that the petitioner did not continuously occupy the room for the entire period covered by the bill and the version of the petitioner and that of her husband as DW1 during the enquiry proceedings, are not the same, as noticed by the enquiry officer. But, at the same time, while dealing with the question as to whether the document, shown to be of a private institution like a hotel, is true or not, one would expect the evidence of that private sector institution, viz. the hotel, as part of the records of the enquiry. The hotelier is not examined. It requires a strict approach to enter a finding that the bill held out by the petitioner for occupational charges was bogus, because it is a finding that would taint not only the integrity and credibility of the officer, but would also effect the morale of the individual, if it is not proved with a fair amount of certainty that the

document was, in fact, fabricated. However, even if there is a finding that the petitioner had not intentionally acted in the matter and had not placed any fabricated document, nor had committed any breach of trust, going by the entire records, it is apparent that the claim made by the petitioner for reimbursement was in excess of probable actuals. Therefore, the ultimate punishment sustained by the appellate authority does not require to be interfered with, though for different reasons.

6. For the foregoing reasons, while dismissing the writ petition as regards the punishment imposed on the petitioner by the respondents, all findings regarding the credibility of the document, on the basis of which the petitioner had sought reimbursement, would stand vacated.

The writ petition is disposed of in the aforesaid terms. No costs.

Sd/-
THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.16196 OF 2001

JUDGMENT

19TH JUNE, 2007.

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